

APPLICATION SERIAL NO. 09/821,335

PATENT

REMARKS

Claims 34-59 are pending in the application, with claims 34-47 having been rejected and claims 48-59 having been allowed. In response, applicants herein cancel claim 34, and amend claim 38 to be in independent form by incorporation of the limitations of claim 34, its base claim. Claims 35-37 and 39-47 have been amended to depend from claim 38 instead of claim 34, but the particular limitations of these claims have not been narrowed in any respect. No new matter has been added. Further examination and reconsideration respectfully are requested.

Status of Claims 37 and 53

Although these claims were withdrawn in applicants' previous response, the examiner has considered and examined them in the most recent Office action. Accordingly, applicants understand that these claims are now no longer withdrawn and have treated them accordingly in the present listing of claims.

Status of the Drawings

The examiner's acceptance of the drawings is noted with appreciation.

The Rejection of Claim 38 Under 35 U.S.C. § 112 is Traversed

Claims 34-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. The examiner argues that claim 34 (and presumably all claims dependent therefrom) is ambiguous because the language of the claim does not differentiate between the recited optical elements; specifically, the difference is ambiguous in that any micro-structured optical element is necessarily a three-dimensional optical element, and any three dimensional optical element can be measured in microns. Applicants traverse the rejection as to claims 38-40.

Claims 38-40 all specifically limit the three-dimensional optical element to specific lower limit vertical dimensions. Claim 38 sets forth that the three-dimensional optical element has a vertical dimension of at least 100 μm relative to a replication base surface. Claim 39 sets forth that the three-dimensional optical element has a vertical dimension of at least 500 μm relative to a base surface. Claim 40 sets forth that the

APPLICATION SERIAL NO. 09/821,335

PATENT

three-dimensional optical element has a vertical dimension of at least 1 mm relative to a base surface. While the three-dimensional optical element limitations of claims 38 and 39 are expressed in microns (claim 40 is expressed in millimeter), these claims now set forth specific lower limit vertical dimensions. Hence, these claims are not ambiguous in any respect, since the number of microns is specified as a lower limit. Withdrawal of the rejection as to claims 38-40 respectfully is requested.

Not only do claims 38-40 have no ambiguity, they are also patentable over Feldman. As applicants have previously stated, claim 34 (from which claims 38-40 depend and whose limitations they inherently incorporate) sets forth that "at least one of the optical sheets includes a surface replicated with both a micro-structured optical element and at least one three-dimensional optical element" (emphasis supplied). Hence, it is unambiguous that both elements are replicated on the same surface, which is not disclosed, taught or suggested by Feldman. Hence, claims 38-40 are allowable.

Claim 38 has been rewritten in independent form, and is therefore allowable. Claims previously dependent from claim 34 have been amended to depend from claim 38, so that claims 35-37 and 39-47 now depend directly or indirectly from claim 38. As claim 38 is in condition for allowance, all claims dependent from claim 38 are allowable as well, since they include all of the limitations of the independent claims from which they depend and are patentable for the same reasons as set forth above. Moreover, while the dependent claims may recite additional limitations of independent patentable significance, extensive discussion of their independent patentability is moot in view of the remarks made in connection with the independent claims.

Conclusion

In view of the amendments and reasons provided above, it is believed that all pending claims are in condition for allowance. Applicants respectfully request favorable reconsideration and the timely issuance of a Notice of Allowance. If a telephone conference would be helpful in resolving any issues concerning this communication, please contact the undersigned at (952) 253-4135.

APPLICATION SERIAL NO. 09/821,335


PATENT

Respectfully submitted,

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